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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/530,481	04/06/2005	Junji Hoshiba	MD3015-0031	5334

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EXAMINER	
PARSLEY, DAVID J	
ART UNIT	PAPER NUMBER
3643	
MAIL DATE	DELIVERY MODE
02/28/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/530,481	HOSHIBA ET AL.	
	Examiner	Art Unit	
	DAVID J. PARSLEY	3643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *14 December 2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1 and 3-20* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1 and 3-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *06 April 2005* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

Detailed Action

Amendment

1. This office action is in response to applicant's amendment dated 12-14-07 and this action is final.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1 and are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,010,847 to Braden in view of U.S. Patent No. 3,529,575 to Schalk.

Referring to claim 1, Braden discloses an artificial nipple for an experimental animal comprising, a nipple - at 46 or 72, made of a material and configured to be elastically deformable such that an interior volume of the nipple is changed when the nipple is sucked by an animal - see figures 4-7 and 12 and column 3 lines 22-38 and column 4 lines 3-20, a replaceable duct - at 18 or 70, located in the nipple - see figures 1-12, and a structure – at 54 or 92, that prevents liquid from accumulating in portions of the nipple – see figures 1-12, wherein the structure that prevents liquid from accumulating includes at least one of a separate elastic member and an

elastic member formed integrally with an outer wall of the nipple – see figures 1-12, column 3 lines 22-38 and column 4 lines 3-20. Braden does not disclose liquid accumulates only in the nipple tip and the duct. Schalk does disclose the liquid accumulates only in the nipple tip – at the front of 19 and the duct – at 18 – see figure 6. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Braden and add the liquid accumulating in the nipple tip and the duct of Schalk, so as to allow for the flow of liquid in the device to be controlled.

Referring to claims 3, 6 and 12, Braden as modified by Schalk further discloses – at 41, provided in a joint part with a feeding bottle – at 10,18,26, – see figures 3 and 6 of Schalk. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Braden as modified by Schalk and add the check valve of Schalk, so as to allow for the flow of liquid in the device to be controlled.

Referring to claims 4 and 10, Braden as modified by Schalk further discloses the feeding bottle comprising therein a replaceable tube – at 14 – see figures 1-2 of Braden.

Referring to claims 7, 15 and 17, Braden as modified by Schalk further discloses a mechanism by which liquid stops flowing when an experimental animal drinks a predetermined amount or a certain amount of the liquid and thereby the internal pressure of the feeding bottle becomes negative – see 34 in figures 3 and 6 of Schalk. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Braden as modified by Schalk and add the mechanism for stopping flow of liquid of Schalk, so as to allow for the flow of liquid in the device to be controlled.

Referring to claim 8, Braden as modified by Schalk further discloses a mechanism by which the experimental animal is allowed to voluntarily drink the liquid again upon application

of a pressure from outside the feeding bottle after the liquid stops flowing when the experimental animal drinks the predetermined amount or the certain amount of the liquid and thereby the internal pressure of the feeding bottle becomes negative – see at 10,34 in figures 3 and 6 of Schalk. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Braden as modified by Schalk and add the mechanism for stopping liquid flow of Schalk, so as to allow for the flow of liquid in the device to be controlled.

Referring to claims 5 and 11, Braden as modified by Schalk further discloses the tube is marked with calibrations for measurement and/or a movable mark – see at 16 in figure 2 of Braden.

Referring to claims 9 and 20, Braden as modified by Schalk further discloses the nipple is attached to a feeding bottle – at 14, including a replaceable tube – at 14,18, – see figures 1-2 of Braden and calibrations for measurement and/or a movable mark – see at 16 in figure 2 of Braden.

Referring to claims 13-14, Braden as modified by Schalk further discloses a check valve – at 41, provided in a joint part with a feeding bottle – at 10,18,26, – see figures 3 and 6 of Schalk. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Braden as modified by Schalk and add the check valve of Schalk, so as to allow for the flow of liquid in the device to be controlled.

Referring to claims 16 and 18, Braden as modified by Schalk further discloses a mechanism by which liquid stops flowing when an experimental animal drinks a predetermined amount or a certain amount of the liquid and thereby the internal pressure of the feeding bottle becomes negative – see 34 in figures 3 and 6 of Schalk. Therefore it would have been obvious to

one of ordinary skill in the art to take the device of Braden as modified by Schalk and add the mechanism for stopping flow of liquid of Schalk, so as to allow for the flow of liquid in the device to be controlled.

Referring to claim 19, Braden as modified by Schalk further discloses a mechanism by which the experimental animal is allowed to voluntarily drink the liquid again upon application of a pressure from outside the feeding bottle after the liquid stops flowing when the experimental animal drinks the predetermined amount or the certain amount of the liquid and thereby the internal pressure of the feeding bottle becomes negative – see at 10,34 in figures 3 and 6 of Schalk. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Braden as modified by Schalk and add the mechanism for stopping liquid flow of Schalk, so as to allow for the flow of liquid in the device to be controlled.

Response to Arguments

3. Both the Braden reference US 5010847 and the Schalk reference US 3529575 disclose replaceable ducts - at 16,18 of Schalk and - at 18 of Braden in that each of these ducts can be removed from their respective nipples and be replaced with another duct. Further, the combination of the Braden and Schalk references is deemed proper in that each device has similar structure of a gravity fed container having a nipple at its bottom with similar function of feeding animals. Further, applicant does not positively recite the liquid in the device and describes the use of liquid in functional language in the claims and it is deemed that the device of Braden is capable of being used with liquid as seen in figures 1-12.

Conclusion

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DAVID J. PARSLEY whose telephone number is (571)272-6890. The examiner can normally be reached on Monday-Friday from 8am to 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on (571) 272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/David J Parsley/
Primary Examiner, Art Unit 3643